

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Elliot Olstein on 31 Mar 2010.

The application has been amended as follows:

#### ***Amendment to the Claims***

75. (Currently Amended) The method of claim ~~66~~ 67 wherein the dextrin is applied to the appropriate body cavity in an amount of about 4 % weight to volume of the aqueous formulation.

### **DETAILED ACTION**

This Office Action is responsive to Applicant's Amendment and Remarks, filed 25 Mar 2010, in which claims 23, 51, 57, 67 and 77 are amended to change the scope and breadth of the claim and claims 26, 30, 31, 32, 33, 34, 52, 53, 56, 59, 60, 61, 63, 64, 65, 71, 73, 74 and 75 are amended to change the phrasing of the claim.

This application is the national stage entry of PCT/GB99/01306, filed 13 May 1999; and claims benefit of foreign priority document UNITED KINGDOM 9810127.2, filed 13 May 1998; this foreign priority document is in English.

Claims 23, 26-35, 45-83 are pending in the current application and allowed herein.

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

#### ***Rejections Withdrawn***

Applicant's Amendment, filed 25 Mar 2010, with respect to claims 23, 26-35 and 45-83 rejected under 35 U.S.C. 103(a) as being unpatentable over Dobbie ("Separation of Peritoneal Surfaces Through the Maintenance of an Artificial Ascites as a Preventative of Peritoneal Adhesions" Abstract, from The 4th Peritoneum and Peritoneal Access Meeting, September 16-19, 1997, of record) in view of Milner (US Patent No. 4,886,789, of record) or Holtz et al. (Fertility and Sterility, volume 33, number

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6, June 1980, pages 660-662, and volume 34, number 4, October 1980, pages 394-395, of record) has been fully considered and is persuasive, as amended claims 23, 51, 57, 67 and 77 require the method of treating a patient to reduce the incidence of post-operative adhesions comprising treating said patient prior to said post-operative period by introducing an aqueous formulation comprising dextran and wherein the aqueous formulation that is introduced prior to said post-operative period provides said treating. Dobbie in view of Milner or Holtz et al. teaches a method of post-operatively treating patients at risk of abdominal adhesions by the method of continuous ambulatory peritoneal dialysis (CAPD) and as noted by Applicant Dobbie teaches said treatment "[a]s long as continuous ambulatory peritoneal dialysis (CAPD) is maintained", ie. continuous administration during the post-operative period provides said treating. Dobbie in view of Milner or Holtz et al. is also relied on to teach the method accomplished by a single intraperitoneal medication by analogous treatment with dextran. However, Applicant's Remarks supported by evidence in the form of the DeWilde et al. review article (Gynecol. Surg. 2007, 4, p243-253) provided as tab 7 of the declaration of Andrew Barrett filed 29 Sep 2008, specifically at DeWilde et al. page 247, right column, paragraphs 3-4 summarizing references published in 1986, 1984, 1998, 1965 and 1996 showing a lack of predictable success of the method using dextran taught by Holtz et al. are persuasive that one of ordinary skill in the art at the time of the instant invention was made would not have a reasonable expectation of success in combining the teachings of the prior art to give a single intraperitoneal medication by analogous treatment with dextran.

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This rejection has been **withdrawn**.

The closest prior art is Dobbie in view of Milner or Holtz et al. discussed as above.

As detailed above, Applicant's Remarks supported by evidence of the declaration of Andrew Barrett filed 29 Sep 2008 is persuasive that the instant invention would not have been obvious to one of ordinary skill in the art at the time of the invention because one of ordinary skill in the art at the time of the instant invention was made would not have a reasonable expectation of success in combining the teachings of the prior art to give a single intraperitoneal medication by analogous treatment with dextran.

Therefore the instant invention is not taught or fairly suggested by the prior art.

### ***Conclusion***

Claims 23, 26-35, 45-83 are in condition for allowance in view of the Examiner's Amendment detailed herein.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan S. Lau whose telephone number is 571-270-3531. The examiner can normally be reached on Monday - Thursday, 9 am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on 571-272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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